

## Email Attachment From: National Organic Standards Board

### Subject:

Comments on Proposed Amendments to the USDA National List of Allowed and Prohibited

Substances (National List), Docket Number TMD-02-03

**April 2, 2003**

The National Organic Standards Board appreciates the fact that the USDA National Organic Program has published proposed amendments to the USDA National List of Allowed and Prohibited Substances (National List), Docket Number TMD-02-03. Thank you.

The NOSB also appreciates the opportunity to comment on the proposed amendments. The NOSB offers its comments both to clarify issues associated with the amendments and to suggest further improvements in the National List, based on existing NOSB recommendations.

The NOSB commends and supports the NOP for incorporating many of our recommendations. We also appreciate the inclusion of some technical corrections to the regulation.

### Comments on §205.601

NOSB supports the revision of the introductory text that refers to relevant restrictions on use of materials as required in §205.203(c) and §205.206 (a-d). This amended reference reminds producers and certifying agents to review use restrictions both stated in the regulation and in the National List prior to using a listed material.

**Pheromones** - The NOSB recommended specific language to amend the annotation for pheromones to correct their inaccurate designation as "insect attractants." Pheromones are commonly used for insect mating disruption, or mass confusion technique, which is not exactly synonymous with "insect attraction." In its current form, the proposed amendment indirectly deals with pheromones by changing the annotation for inert ingredients.

To deal with the above issue, the language at 205.601(f) should be changed to:  
"for insect management – Pheromones"

The NOSB annotation for pheromones, adopted 10/20/02, which was based on EPA recommendations, should be adopted as a policy guidance statement for §205.601(m)(2) to read as follows:

Pheromones -includes only EPA-exempt pheromone products, EPA-registered pheromone products with no additional synthetic toxicants unless listed in this section, and any inert ingredients used in such pheromone formulations that are not on EPA List 1 (Inerts of toxicological concern) or EPA List 2 (Potentially toxic inerts), *Provided* the pheromone products are limited to passive dispensers. Pheromone products containing only pheromones, active ingredients listed in this section, and List 4 inerts may be applied without restriction.

The point of this lengthy annotation was to clarify that List 3 inerts can be used in pheromone formulations that are EPA registered, as well as in those that are exempt from EPA registration, provided that all active ingredients are approved and the pheromone is used in a passive dispenser (trap). The listing of inert ingredients for pheromones in §205.601(m)(2)

may be interpreted to imply use only in EPA-registered pheromones.

**Hydrated Lime** - The NOSB commented in June, 2001, that the annotation in §205.601(i)(3) for hydrated lime is incorrect: “-must be used in a manner that minimizes copper accumulation in the soil.” Hydrated lime was recommended for crop use by the NOSB in 1995 in the context of a review of Bordeaux mix (copper sulfate plus hydrated lime). Hydrated lime by itself does not contain copper, and cannot lead to copper accumulation. We suggest either deleting the annotation, (use as fungicide remains permitted) or revising it to “for use with copper sulfate which must be used in a manner that minimizes copper accumulation in the soil.”

**Peracetic acid:** The proposed annotation at 205.601(i)(7) appears to be redundant. It states  
“for use to control fire blight bacteria when approved by the Environmental Protection Agency (EPA) under a Special Local Need (24c) registration.” Pesticidal use of peracetic acid is regulated by EPA and subject to their authority. Currently there are no products registered with EPA for this use, though in the future it is possible some products may be developed and registered. This language also implies that only products with a Special Local Need (24c) registration may be used. Research use for product development would more likely occur under an Experimental Use Permit, (Section 5 registration), as the NOSB recommended allowing, in order to encourage alternatives to antibiotic use for fire blight control. In either case, EPA has jurisdiction for all uses so it is not necessary to specify the EPA status in the NOP regulation. We suggest the following language: “for use to control fire blight bacteria when approved by the Environmental Protection Agency (EPA) under a Special Local Need (24c) registration.”

#### **Comments on §205.602**

**Sodium chloride** - The NOSB recommended in 1995 that sodium chloride, (a natural substance), be prohibited (historically used as a herbicide), except for use in emergency cotton defoliation with the following annotation:

Sodium chloride — Except for use in organic cotton production to comply with emergency spray programs or to prevent immediate loss of crop.

**The absence of this substance on the prohibited nonsynthetic list allows its use without restriction. The NOSB recommendation should be reconsidered.**

#### **Comments on §205.603 – Livestock**

NOSB supports the temporary allowance for DL-Methionine through October 21, 2005.

NOSB appreciates the deletion of the **inert ingredients** section from §205.603(f) and its move to (e)(1). This is an important clarification that EPA List 4 inert ingredients are

permitted only in pesticides approved for organic livestock use.

Another correction is needed in §205.603(b)(3) **Lime, hydrated** – The regulation continues to state “(bordeaux mixes), not permitted to cauterize physical alterations or deodorize animal wastes.” The NOSB has commented that the mention of Bordeaux mix here is incorrect. ‘Bordeaux mixture’ is a crop protection material, not a livestock material. The following language change makes more sense for the livestock listing:

§205.603(b)(3): lime, hydrated, ~~(bordeaux mixes)~~, as external pest control, not permitted to cauterize physical alterations or deodorize animal wastes.

### Comments on §205.605

Please note a typographical error: §205.605(a) Synthetics allowed – should be numbered as §205.605**(b)** Synthetics allowed.

Please also note that **tartaric acid** is listed only as a nonsynthetic, while NOSB reviewed and approved both the synthetic and nonsynthetic forms. To be consistent and clear, tartaric acid should be added to both §205.605(a) and §205.605(b).

### NOSB Recommendations

In the Federal Register notice, the background section states that between June 6, 2000 and October 20, 2002, the NOSB recommended that the Secretary of Agriculture add ten substances to §§205.601-205.603 based on petitions received from industry participants (68 *Fed. Reg.* 18556). However, the NOSB recommended 25 items during this time period.

Of particular concern are 13 livestock medications that the NOSB deemed to be high priority. We suggest that the NOSB recommendations be addressed consistently with implementation of all NOSB livestock recommendations in the next proposed amendments to the National List, with priority given to substances needed to alleviate animal suffering and the protection of animal welfare.

NOSB recommended a change in the annotation for **ivermectin** in November, 2000, to add: “slow release formulations such as the SR (slow release) bolus are prohibited.” In the next Federal Register notice, this recommendation should be added to the annotation at §205.603(a)(13).

The NOSB recommended in October, 2002, to add a specific allowance for **excipients** used in animal drugs. This recommendation should be incorporated to permit formulations of medical products containing the approved active ingredients. The NOSB recommended a suggested language change in §205.603(a) to read as follows:

§205.603(a) excipients, for use in livestock drugs, except:  
(i) reserved [any specific substances that may be prohibited]

NOSB recommended 11 processing materials between June 6, 2000, and October 20, 2002. These materials need to be added to the National List in a timely manner.

The NOSB also made two recommendations for additions to §205.605 in November, 2000, that were not incorporated in the Final Rule published December 21, 2000. These recommendations included animal-derived enzymes: rennet (animal derived), catalase

(bovine liver), animal lipase, pancreatin, pepsin, trypsin, and peracetic acid. The current docket adds only three processing substances to §205.605, all of which were based on NOSB recommendations dating to 1995.

In addition, NOSB submitted a list of proposed Technical Corrections in June, 2001, which should be considered for future amendments to the regulation and the National List.

The NOSB is encouraged to see many of our recommendations included in this proposed rule. We look forward to assisting the NOP in the adoption of existing and future NOSB recommendations. With operators now under the requirements of federally regulated certification, it is critical that the regulation and National List be updated to reflect NOSB recommendations and relieve potential hardships for producers and handlers.

### ***Conclusion***

Thank you very much for publishing the proposed amendments to the National List, and for offering the opportunity to comment. The NOSB stands ready to assist the NOP in the drafting and review of future amendments to the National List and National Organic Program regulations.

Respectfully submitted,

National Organic Standards Board